

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

WILLIAM J. WAGNER,

Plaintiff,

-vs-

DECLARATION

Docket No. 15-cv-633-FPG

CHIARI & ILECKI, LLP,

Defendant.

KAREN SANDFORD declares under penalty of perjury, pursuant to 28 U.S.C. § 1746:

1. I am a legal assistant employed by the defendant, CHIARI & ILECKI, LLP, in this matter. As such, I am familiar with the facts and circumstances involved in this litigation.

2. I submit this declaration in opposition to the plaintiff's motion for summary judgment and in support of Chiari & Ilecki's cross-motion for summary judgment.

3. On February 12, 2015, I received a telephone call from an individual who identified himself as William Wagner and indicated that he had received a letter that our office had sent to a debtor named William J. Wagner, Jr., at 5419 Roberts Road, Hamburg, New York 14075.

4. The caller claimed that he lived at the Roberts Road address, that he was not the William J. Wagner, Jr., that we were looking for, and that he was not a "Jr." at all.

5. The caller also told me that had been receiving communications intended for the debtor, William J. Wagner, Jr., for the last six or seven years.

6. Upon request, the caller told me what were supposedly the last two digits of his Social Security number. He did not, however, provide a copy of his driver's license, Social Security card, or other proof sufficient to allow us to verify his identity.

7. I informed the caller that I would note his claim in our file and notify the attorney handling the case. I did not, however, tell the caller that he had provided enough information for us to verify his identity.

8. I contemporaneously entered a summary of our conversation into our office's events log for the debtor's file, a redacted copy of which is attached as *Exhibit A*.

9. I also emailed Melissa Overbeck, Esq., the attorney in charge of the file, to notify her of the caller's claim that he was not the debtor, William J. Wagner, Jr. A copy of my email is attached as *Exhibit B*.

10. On June 17, 2015, I received another telephone call from an individual who identified himself as William Wagner and claimed that he had been handed papers from our office addressed to the debtor, William J. Wagner, Jr.

11. The caller said that he was not the debtor and that there was no "Jr." at his address or in his family.

12. I inquired about the caller sending us a copy of his driver's license. He said that he thought he had sent his license, but our file showed that we clearly had not received it.

13. Once again, the caller never gave me proof sufficient to verify his identity.

14. The caller claimed that we were harassing him, but he never suggested that he thought we were trying to mislead him or collect a debt from him, as opposed to the debtor, William J. Wagner, Jr.

15. As before, I contemporaneously entered a summary of our conversation into our office's events log. *See Exhibit A.*

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: March 1, 2017



Karen Sandford